

June 9, 2004

SENT ELECTRONICALLY, BY FAX AND MAIL

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

RE: *Assignment of Interstate Pipeline Capacity*, D.T.E. 04-1

Dear Secretary Cottrell:

On January 12, 2004, the Department opened an investigation to determine whether the interstate pipeline capacity and other upstream natural gas markets are sufficiently competitive to allow local gas distribution companies ("LDCs") to assign capacity rights voluntarily, rather than on the current mandatory basis. *Assignment of Interstate Pipeline Capacity*, D.T.E. 04-1 at 1. Initial comments were filed on March 1, 2004 and reply comments on March 29, 2004. On May 19, 2004 the Department issued its first set of information requests to a number of commenting parties, including the Attorney General.

The Attorney General normally does not respond to discovery requests unless he is sponsoring a witness and then only in response to questions regarding the witness's testimony. The Attorney General is providing responses to the Department's questions in this case, however, to assist the Department in its deliberations.

1. Refer to the Attorney General's initial comments at 3. Please support the Attorney General's claim that the restructured Massachusetts natural gas industry has not delivered what was promised--a natural gas market in Massachusetts that delivers "enhanced benefits to the consumers in the form of broader choice, increased efficiency, and lower costs."

There is no competitive choice for Massachusetts residential customers. According to the Department's website (<http://db.state.ma.us/dpu/qorders/frnGasSuppliers.asp>), there are no licensed suppliers listed as serving residential customers. While four licensed retail agents are listed as serving residential customers, none have active websites and neither of the two that could be reached by telephone were actually serving or offering services to residential

customers. Of all the LDC's websites, only KeySpan's website contains a listing of suppliers¹ (http://www.keyspanenergy.com/energy/purchase/suppliers_ma_kedma.jsp), but none clearly indicates which suppliers, if any, are willing to serve residential customers. Other LDC websites are completely devoid of supplier information. See the following websites:

Bay State Gas Company (<http://www.baystategas.com/choice/index.htm>)

Berkshire Gas Company (<http://www.berkshiregas.com/>)

New England Gas Company (<http://www.negasco.com/home/choice.php>)

NSTAR Gas Company (http://www.nstaronline.com/customer_service/)²

Regarding lower costs: there are some customers that continue to be served competitively, and they probably are enjoying lower costs. However, the promise of natural gas competition was to all customers or at least a broad spectrum of customers, not just a certain sub-set of customers. The largest customer group--residential and small business customers, has not enjoyed lower costs, not only because there are no competitive options, but also because LDC gas prices have been based on short-term indices that are volatile by nature and that have been the subjects of manipulation. However laudable the decision to encourage index pricing (DTE 98-32-B, p. 54) may have been, it did not result in lower costs to customers. Customers were promised broader choice and lower costs. They may have been given the power to choose, but without any available options they effectively have no choice and have not received the benefits of increased efficiency and lower gas costs. The promise of increased efficiency is bundled with the promise of lower costs and choice. As stated in the Attorney General's initial comments, residential and small business customers have experienced significant price volatility and higher CGA costs. These are real harms. It is within the ability of the LDC's to provide options to customers, less volatile prices and more economically efficient gas procurements through programs such as the procurement program initiated recently by KeySpan and approved by the Department in D.T.E. 03-85.

2. Refer to the Attorney General's initial comments at 3-4. With reference to the most recent forecast and supply plans approved by the Department for Massachusetts LDCs, support the Attorney General's claim that LDCs may not have sufficient resources to serve the growing load within their service territory (sic) and may not have considered the return of all competitively served customers in developing capacity and supply plans.

In both *Bay State Gas Company*, D.T.E. 02-75 and *NSTAR Gas Company*, D.T.E. 02-105, the Companies stated that they did not have sufficient capacity to serve customers returning without capacity. See D.T.E. 02-75, *Bay State Gas Company* filing at 42, Tr., p. 10 and D.T.E. 02-12, *NSTAR Gas Company*, Tr. p. 42. See also *KeySpan*, DTE 01-105, pp. 29-30 (Due to limited

¹ Fitchburg Gas & Electric Light Company's website does provide a list of competitive suppliers for business customers (http://services.unitil.com/fge/bus_natural_gas_competitive.asp) and (http://services.unitil.com/fge/supplier_info.asp).

² NSTAR's website provides a listing of competitive electricity suppliers.

experience with new transportation customers, the Company did not adjust forecast to reflect new transportation customers' potential need for capacity) and DTE 02-17, *Berkshire Gas Company*, response to D.T.E 1-36 and D.T.E. 1-146 (forecast does not explicitly incorporate reverse migration).

3. Refer to the Attorney General's initial comments at 2. Please support the Attorney General's claim that small customers bear the unmitigated/unassigned capacity costs left by migrating customers on the current capacity assignment regime.

Under the LDC's Terms & Conditions, mandatory capacity assignment for non-daily metered customers is done in blocks. The imposition of a minimum block size means that marketers serving a customer in a gas service area will not be assigned capacity unless the load served is at or above the minimum block size. The costs of unassigned capacity flow through the CGA and the majority of CGA costs are allocated to residential and small business customers. See, for example, NSTAR Gas Company M.D.T.E. No. 400,³ Terms and Conditions, Sections 24.6 and 13.4.2 (initial block of capacity for a supplier in a gas service area is 400 MMBtu, additional blocks are assigned based on additional service increments of 150 MMBtus).

4. Please refer to the Attorney General's reply comments at 2-3. What are the "real cost and price uncertainties" which small customers must endure as Massachusetts moves to a fully competitive natural gas market? What are the "real benefits" that should be given to customer to offset the "real costs" they have experienced?

LDC provided default service is the only service available to residential customers. LDCs gas costs are based on short-term published gas price indices. These prices have displayed significant volatility that is passed on to customers. Although customers have budget billing available to help stabilize their bills, they have difficulty predicting and budgeting for annual natural gas costs. Restructuring promised choice. Customers should have an alternative to default service. One such option that can be provided by LDCs is a fixed price option. A fixed price option has been available to customers in New Hampshire. The details of the NH program were provided during the recent KeySpan rate case. *Cite provided in comments.*

The Attorney General looks forward to working with the Department and interested parties to bring the benefits of competition and choice to all natural gas customers in Massachusetts.

Sincerely,

Edward G. Bohlen
Assistant Attorney General

³ http://www.nstaronline.com/customer_service/tariffs/4/400.pdf